



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

APR 22 2011

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and
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Mr. Richard F. Bergner
Attorney at Law
Registered Agent for National Oil Recovery Corporation
5151 San Felipe, Suite 1950
Houston, Texas 77056
713-783-4832 (telephone)

**Re: Resumption of Removal Work by NORCO - Falcon Refinery Superfund Site;
2725 Bishop Road, Ingleside, San Patricio County, Texas**

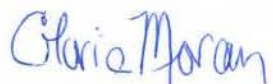
Dear Mr. Bergner:

I am enclosing an *Agreed Order for Resumption of Removal Work at the Falcon Refinery Superfund Site, Ingleside, San Patricio County, Texas* (Agreed Order) for the signature of the Owner of the National Oil Recovery Act Corporation (NORCO) or a duly authorized representative of NORCO. The Agreed Order memorializes the understanding that we reached during our phone conversation on April 15, 2011. That is, the enclosed Agreed Order contains the terms under which NORCO will be able to resume the performance of the removal action as specified in the Administrative Order on Consent for Removal Action in the matter of Falcon Refinery Site, San Patricio County, Texas, National Oil Recovery Corporation (NORCO) Respondent, CERCLA Docket No. 06-04-04 (Removal Order).

The U.S. Environmental Protection Agency, Region 6 (EPA) is authorizing **only** resumption of the removal action at the Falcon Refinery site. In addition, EPA will issue a Work Takeover to NORCO, should the Agency determine that NORCO has failed to comply with the terms of the Agreed Order. Therefore, as stated in the Agreed Order, the required deposited amount in the escrow account must be used only for the payment of TRC Companies and other designated contractors. Also, the removal action must be completed within the timeframe specified in the Agreed Order.

Please sign the Agreed Order and return it to me as soon as possible to commence resumption of the removal action as soon as practicable. If you have any questions, please do not hesitate to contact me at 214-665-3193 or moran.gloria-small@epa.gov

Sincerely,



Gloria Moran
Assistant Regional Counsel
Superfund Branch

Enclosure

**AGREED ORDER FOR RESUMPTION OF REMOVAL WORK
AT THE FALCON REFINERY SUPERFUND SITE,
INGLESIDE, SAN PATRICIO COUNTY, TEXAS**

By this Agreed Order, the U.S Environmental Protection Agency, Region 6 (EPA) has determined that the National Oil Recovery Act Corporation (NORCO), owner of the Falcon Refinery Superfund Site, Ingleside, San Patricio County, Texas (Site) and Responsible Party under Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9607(CERCLA) shall resume performance of the removal action in accordance with the Administrative Order on Consent for Removal Action in the matter of Falcon Refinery Site, San Patricio County, Texas, National Oil Recovery Corporation (NORCO) Respondent, CERCLA Docket No. 06-04-04 (Removal Order).

- A. Whereas, NORCO was informed in the Work Takeover letter dated March 28, 2011 from Pam Phillips, Acting Division Director, that the EPA had determined it necessary to take over performance of remaining work required under the Removal Order in accordance with the takeover provision of Section XX, Paragraph 76 of the Removal Order. In addition, NORCO was informed in the March 28, 2011, Work Takeover letter that EPA had determined it necessary to take over performance of the remaining work required under the Administrative Order on Consent for Remedial Investigation and Feasibility Study, in the matter of Falcon Refinery Site, San Patricio County, Texas, National Oil Recovery (NORCO) Respondent, CERCLA Docket No. 06-05-04 (RI/FS Order) in accordance with the work takeover provisions of Section XXIV, Paragraph 88 and Section XXVIII, Paragraph 102 of the RI/FS Order.
- B. Whereas, EPA invoked the work takeover provisions of the Removal Order and the RI/FS Order because NORCO has defaulted in the performance of the terms and conditions of the Removal Order and the RI/FS Order.
- C. Whereas, EPA has determined that NORCO shall resume performance of the removal action in accordance with the Removal Order and EPA shall withdraw only the Work Takeover of the Removal Action so long as NORCO agrees to the following conditions:
 - 1. NORCO shall deposit \$500,000 (Five hundred thousand dollars) in an escrow account to which On-Scene Coordinator Gary Moore, EPA, Region 6, shall be designated an authorized user with on-line banking access to insure that these funds are used only to pay TRC Companies, Inc. and other designated contractors for conduct of work associated with the removal action and to fully monitor payments to such contractors.

2. NORCO shall provide to EPA a detailed work plan and schedule of remaining activities required in the removal action within 10 days of the effective date of this agreed order, and complete performance of the work no later than December 31, 2011. The contents of all tankage shall be removed and disposed, and all tankage cleaned and gas freed no later than August 1, 2011. Additionally, all visibly contaminated soils, including those under tankage shall be removed and properly disposed by December 31, 2011.
3. NORCO agrees that EPA, having drawn the \$500,000 on the Letter of Credit No. 61617566 established for the removal action, shall maintain the \$500,000 in a Special Account under the exclusive control of EPA for the duration of the performance of the remaining removal work by NORCO. Such funds to be returned to NORCO upon the timely and successful completion of the removal action in accordance with the Removal Order, as determined by EPA On-Scene Coordinator Gary Moore.
4. NORCO agrees that EPA shall continue the process of lifting the suspension of the listing of the Falcon Refinery Site on the NPL and list the Site on the Final NPL. As specified in Section XXVI, Paragraph 97 of the RI/FS Order, the Falcon Refinery Site will be listed based on the conditions of the site prior to the initiation of any response activities by NORCO, and NORCO shall not challenge a final listing based on changed conditions due to a partial cleanup. .
5. NORCO agrees that EPA, having notified NORCO in writing in a letter dated March 28, 2011, that the Agency believes it has a reasonable basis upon which to perfect a lien, shall continue to proceed in accordance with the procedures for filing a lien to support an action for costs. NORCO shall maintain its opportunity to state whether EPA's information or determination is in error.
6. NORCO agrees that should EPA determine that NORCO has failed to comply with the terms of this Agreed Order, EPA shall issue a Work Takeover to NORCO and proceed to clean up the Falcon Refinery Site as specified in the Removal Order, using fund from the payment of the Letter of Credit for the Removal Action (Letter of Credit No. 61617566) that is maintained in the Special Account under the control of EPA.

As evidenced by the signature of the Owner or a duly authorized representative, NORCO consents to the terms in this Agreed Order.

Date: _____

Signature of Owner or Duly Authorized Representative

Title

Address

Phone Number